

Implementation of State Procurement Memorandum

PARTICIPATION OF SMALL BUSINESSES and
BUSINESSES OWNED by WOMEN and MINORITIES
In STATE PROCUREMENT ACTIVITIES

August 12, 1991

COMMONWEALTH OF VIRGINIA
Department of General Services
Division of Purchases and Supply

TABLE OF CONTENTS

	<u>Page</u>
I. PURPOSE	3
II. SOLICITATION PREPARATION AND PROPOSAL EVALUATION	3
A. Amendment Authorized	3
B. Policy Statement - BACKGROUND	3
C. Proposal Preparation	4
D. Goods and Nonprofessional Services	4
E. Professional Services	8
F. Evaluation and Award	8
G. Allocation of Points	9
H. Scoring of Points	11
I. Reporting and Delivery Requirements	12
III. AGENCY STATISTICS REPORTING	13

I. PURPOSE

The purpose of this memorandum is to provide guidance to all agencies in the implementation of State Procurement Memorandum dated August 12, 1991 from the Secretary of Administration.

It is the policy of the Commonwealth of Virginia to contribute to the establishment, preservation, and strengthening of small businesses and businesses owned by women and minorities and to encourage their participation in state procurement activities. Towards that end, the Commonwealth promulgated State Procurement Memorandum, August 12, 1991. The procedures set out in this memorandum implement the policy and guidelines set out in the State Procurement Memorandum.

II. SOLICITATION PREPARATION AND PROPOSAL EVALUATION REQUIREMENTS

- A. The following requirements govern the preparation and evaluation of new Requests for Proposals (RFPs) as well as pending RFPs, which may be amended in accordance with the provisions set forth in the State Procurement Memorandum notwithstanding Section 4.6 of the Vendor's Manual. When amending RFPs for this purpose, consult with your representative of the Attorney General's Office for legal guidance.
- B. All affected executive branch agencies and institutions shall include the policy statement provided below in Section II. BACKGROUND of RFPs for contracts expected to exceed \$100,000:

It is the policy of the Commonwealth of Virginia to contribute to the establishment, preservation, and strengthening of small businesses and businesses owned by women and minorities and to encourage their participation in State procurement activities. The Commonwealth encourages contractors to provide for the participation of small businesses and businesses owned by women and minorities through partnerships, joint ventures, subcontracts, or other contractual opportunities. Submission of a report of past efforts to utilize the goods and services of such businesses and plans for involvement on this contract are required. By submitting a proposal, offerors certify that all information provided in response to this RFP is true and accurate. Failure to provide information required by this RFP will ultimately result in rejection of the proposal.

- C. The RFP must include in the section on Proposal Preparation (reference Agency Procurement and Surplus Property Manual (APSPM) pg. D-7) the following provision applicable to information solicited in accordance with the State Procurement Memorandum:

All information requested by this RFP on the ownership, utilization and planned involvement of small businesses, women-owned businesses and minority-owned businesses must be submitted. If an offeror fails to submit all information requested, the purchasing agency may require prompt submission of missing information after the receipt of vendor proposals.

D. GOODS AND NONPROFESSIONAL SERVICES

The following statements shall be included in the RFP Section IV. PROPOSAL PREPARATION AND SUBMISSION REQUIREMENTS as one of the SPECIFIC PROPOSAL REQUIREMENTS under paragraph B in RFPs for goods and nonprofessional services. See paragraph II. E below for additional guidance on professional services RFPs regarding planned involvement.

* No. Small, Women-Owned and Minority Business Participation

(* No. refers to the appropriate sequence number you give this criteria in accordance with your RFP numbering system, if applicable.)

The offeror must submit the following three sets of data for small business, women-owned business and minority-owned business: 1) ownership, 2) utilization of small, women-owned, and minority-owned businesses for the most recent 12-months, and 3) planned involvement of small businesses, women-owned businesses and minority-owned businesses on the instant procurement.

1. Participation by Small Businesses:

- a. Offeror certifies that it () is, () is not, a small business concern. For the purpose of this procurement, a small business is a concern, including its affiliates, which is independently owned and operated, is not dominant in the field of operation in which it is contracting and can further qualify under the criteria concerning number of employees, average annual receipts, or other criteria, as prescribed by the United States Small Business Administration.

- b. List small businesses with which the offeror has contracted or done business and dollar amounts spent with each of these businesses in the most recent 12-month period for which data are available. Offerors are encouraged to provide additional information and expand upon the following format:

PERIOD: From: _____ To: _____

<u>FIRM NAME, ADDRESS & PHONE NO.</u>	<u>CONTACT PERSON</u>	<u>TYPE GOODS/ SERVICES</u>	<u>DOLLAR AMOUNTS</u>	<u>% TOTAL CO. EXPENDITURES FOR GOODS & SERVICES</u>
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- c. Describe offeror's plans to involve small businesses in the performance of this contract either as part of a joint venture, as a partnership, as subcontractors or as suppliers. Offerors are encouraged to provide additional information and expand upon the following format:

<u>FIRM NAME, ADDRESS & PHONE NO.</u>	<u>CONTACT PERSON</u>	<u>TYPE GOODS/ SERVICES</u>	<u>DOLLARS</u>	<u>% OF TOTAL CONTRACT</u>
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2. Participation by Businesses Owned by Women:

- a. Offeror certifies that it () is, () is not, a women's business enterprise or women-owned business. For the purpose of this procurement, a women-owned business is a concern that is at least 51 percent owned by a woman or women who also control and operate it. In this context, "control" means exercising the power to make policy decisions, and "operate" means being actively involved in the day-to-day management.
- b. List businesses owned by women with which the offeror has contracted or done business and dollar amounts spent with each of these businesses in the most recent 12-month period for which data are available. Offerors are encouraged to provide additional information and expand upon the following format:

PERIOD: From: _____ To: _____

FIRM NAME, ADDRESS & PHONE NO.	CONTACT PERSON	TYPE GOODS/ SERVICES	DOLLAR AMOUNTS	% TOTAL CO. EXPENDITURES FOR GOODS & SERVICES
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- c. Describe offeror's plans to involve businesses owned by women in the performance of this contract either as part of a joint venture, as a partnership, as subcontractors or as suppliers. Offerors are encouraged to provide additional information and expand upon the following format:

FIRM NAME, ADDRESS & PHONE NO.	CONTACT PERSON	TYPE GOODS/ SERVICES	DOLLARS	% OF TOTAL CONTRACT
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3. Participation by Businesses Owned by Minorities:

- a. Offeror certifies that it () is, () is not, a minority business enterprise or minority-owned business. For the purpose of this procurement, a minority-owned business is a concern that is at least 51% owned and controlled by one or more socially and economically disadvantaged persons. Such disadvantage may arise from cultural, racial, chronic economic circumstances or background or other similar cause. Such persons include, but are not limited to, Blacks, Hispanic Americans, Asian Americans, American Indians, Eskimos, and Aleuts.
- b. List businesses owned by minorities with which the offeror has contracted or done business and dollar amounts spent with each of these businesses in the most recent 12-month period for which data are available. Offerors are encouraged to provide additional information and expand upon the following format:

PERIOD: From: _____ To: _____

FIRM NAME, ADDRESS & PHONE NO.	CONTACT PERSON	TYPE GOODS/ SERVICES	DOLLAR AMOUNTS	% TOTAL CO. EXPENDITURES FOR GOODS & SERVICES
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- c. Describe offeror's plans to involve minority businesses in the performance of this contract either as part of a joint venture, as a partnership, as subcontractors or as suppliers. Offerors are

encouraged to provide additional information and expand upon the following format:

FIRM NAME, ADDRESS & PHONE NO.	CONTACT PERSON	TYPE GOODS/ SERVICES	DOLLARS	% OF TOTAL CONTRACT
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Definitions for Goods and Nonprofessional Services

- **Period** is the specified 12-month period for which the information provided in this list is applicable and valid. The period will be specified as month and year.
- **Firm Name, Address and Phone Number** is the name, address and business phone number of the small business, women-owned business or minority-owned business with which the offeror has contracted or done business over the specified period or plans to involve on this contract, as applicable.
- **Contact Person** is the name of the individual in the specified small business, women-owned business or minority-owned business who would have knowledge of the specified contracting and would be able to validate the information provided in this list.
- **Type Goods or Services** is the specific goods or services the offeror has contracted for from the specified small, women-owned or minority-owned business over the specified period of time or plans to use in the performance of this contract, as applicable. The offeror will asterisk (*) those goods and services that are in the offeror's primary business or industry.
- **Dollar Amount** is the total dollar amount (in thousands of dollars) the offeror has contracted for or has done business with the listed firm during the specified period or plans to use on this contract, as applicable.
- **% Total Company Expenditures for Goods and Services** is calculated by dividing the dollar amount of business conducted or contracted for with the indicated firm over the specified period by the total expenditure of the offeror over the specified period for goods and services.

% of Total Contract is calculated by dividing the estimated dollars planned for the indicated firm on this contract by the total offeror estimated price of this contract.

- E. **PROFESSIONAL SERVICES:** For professional services contracts, e.g., Architect/Engineer Services, the offeror will list separately in the following format, plans to involve small businesses, businesses owned by women and businesses owned by minorities in the performance of this contract either as part of a joint venture, an association, as a consultant, as subcontractors or as suppliers. Separate lists will be provided for small businesses, women-owned and minority-owned businesses. Use the same format provided for goods and nonprofessional services to report past and current involvement with these firms.

FIRM NAME, ADDRESS & PHONE NO.	CONTACT PERSON	TYPE GOODS/ SERVICES	% OF TOTAL CONTRACT
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Definitions for Professional Services

- **Firm Name, Address and Phone Number** is the name, address and business phone number of the small business, women-owned business or minority-owned business which the offeror plans to involve in the performance of this contract.
- **Type Goods or Services** is the specific goods or services the offeror plans to contract for from the specified small business, women-owned business or minority-owned business. The offeror will asterisk (*) those goods and services that are in the offeror's primary business or industry.
- **Contact Person** is the name of the individual in the specified small business, women-owned business or minority-owned business who would have knowledge of the planned involvement and would be able to validate the information provided in this list.
- **% of Total Contract** is calculated by dividing the estimated dollars planned for the indicated firm on this contract by the total offeror estimated price of this contract or by a similar calculation involving work distribution. Do not enter any dollar or manhour figures on the list.

- F. The RFP section on EVALUATION AND AWARD CRITERIA (illustrated on pg D-9 and D-10, *APSPM*) must include as one of the criteria listed: "Participation of Small, Women-Owned and Minority Businesses".

G. Allocation of Points

The allocation and subsequent scoring of points for offerors' responses documenting past and current utilization and planned involvement of businesses in the three classes, small, women-owned, and minority-owned, should be accomplished in a manner that fosters and accomplishes the objectives of this policy. The following point allocation and scoring guidelines are provided to ensure an objective evaluation of offerors' responses, and to result in an award that advances the policy of the Commonwealth of Virginia to contribute to the establishment, preservation, and strengthening of small businesses and businesses owned by women and minorities and to encourage their participation in state procurement activities. The assignment of the total weight or points to this evaluation factor should depend on the availability of businesses in the designated classes to provide the solicited supplies and services. The availability consideration should be restricted to the total availability of women-owned and minority-owned businesses providing the solicited supplies and services. The data base for establishing points based on the availability of minority and women-owned business will be the DPS consolidated (DPS, DIT, DMBE) minority and women-owned vendor list. Small business availability should be discarded because over 90 percent of Virginia businesses can be classified as small.

For example, if the availability of minority-owned and women-owned businesses is high (i.e., greater than 10 such businesses), the weight or point totals for this evaluation factor should be in the high range (e.g., 13 - 15 percent or 13 - 15 points on a scale of 100 points). If the availability of minority-owned and women-owned businesses is moderate (i.e., between 6 - 10 such businesses), the weight to this factor should be in the middle range (e.g., 8 - 12 percent or 8 - 12 points). Similarly, if the availability of women-owned and minority-owned businesses is low (i.e., less than 5 such businesses), the weight should be in the low range (e.g., 5 - 7 percent or 5 - 7 points). However, if it is determined by historical procurement data in Virginia that the goods or services being procured are not typically procured through a prime contractor/subcontractor relationship, and this finding is documented in writing as part of the procurement file, the weight should be set to zero (e.g., 0 percent or 0 points). In this instance, the plan should not be an RFP requirement.

The following guidelines for allocating the total points for this evaluation factor among the business classes and requested information are designed to allow offerors to accumulate points, rather than lose points in this evaluation factor. Hence, greater weight is placed on planned involvement than past and current participation. The intent is to encourage future involvement of small, women-owned and minority-owned businesses, and not to penalize for lack of past or current participation. The past and current participation information provided by

an offeror serves to lend credibility to and substantiate the offeror's information on planned involvement. Additionally, since the majority of women-owned and minority-owned businesses are small, a lesser weight is recommended for small business participation and planned involvement to avoid double or multiple counting for small business participation/involvement in the evaluation of offerors' responses.

In evaluating the six sets of offeror provided information:

- (1) past and current participation of small businesses for the most recent 12-months;
- (2) planned involvement of small businesses in the performance of this contract;
- (3) past and current participation of businesses owned by women for the most recent 12-months;
- (4) planned involvement of businesses owned by women in the performance of this contract;
- (5) past and current participation of businesses owned by minorities for the most recent 12-months;
- (6) planned involvement of businesses owned by minorities in the performance of this contract;

The following allocation and scoring guidelines are recommended:

- Items number 1, 3 and 5 are weighted equally.
- Item number 2 is approximately one and a half times as important as items number 1, 3 and 5.
- Items number 4 and 6 are weighted equally and are approximately twice as important as items number 1, 3 and 5.

NOTE: IF THE AVAILABILITY FOR ANY OF THE BUSINESS CLASSES (i.e., SMALL, MINORITY-OWNED, WOMEN-OWNED) IS ZERO, THE WEIGHT FOR THAT BUSINESS CLASS SHOULD BE SET TO ZERO, AND THE TOTAL POINTS ALLOCATED TO THE REMAINING CLASS(ES).

The following matrix representation of the above guidelines is suggested for assigning points to the six items.

<u>Business Class</u>	<u>Small</u>	<u>Women</u>	<u>Minority</u>
<u>Past/Current Participation</u>	Item #1	Item #3	Item #5
<u>Planned Involvement</u>	Item #2	Item #4	Item #6
<u>Totals</u>	<u>nn</u>	<u>nn</u>	<u>nn</u>

The following example using the matrix representation illustrates the guidelines. In this example, the total weight (based on availability of women-owned and minority-owned businesses) assigned to the small, women-owned business participation evaluation factor is nine (9) points.

<u>Business Class</u>	<u>Small</u>	<u>Women</u>	<u>Minority</u>
<u>Past/Current Participation</u>	1.0	1.0	1.0
<u>Planned Involvement</u>	1.5	2.25	2.25
<u>Totals</u>	<u>2.5</u>	<u>3.25</u>	<u>3.25</u>

H. Scoring of Points

In scoring points for offerors responses in the areas of past and current participation, and planned involvement, a higher score is to be awarded for participation or involvement in the primary business of the offeror and the primary supplies and services being solicited. That is, if the solicitation is for construction of a building, a higher score would be awarded for planned involvement of small, women-owned and minority-owned businesses in architectural design, site preparation and placement of the building foundation, etc. than for site cleanup services after construction is completed. Similarly, on a solicitation for computer software development, past and current participation in subcontracting for commercial-off-the-shelf software, computer supplies (e.g., diskettes, printer paper) and programming would score higher than past/current participation in general office supplies. The purpose of this scoring guideline is to encourage, preserve and strengthen small, women-owned and minority-owned businesses in the primary business of offerors and in the primary supplies and services of state

procurement activities. To ensure compliance with all applicable provisions of the Code of Virginia, points may not be awarded solely on the basis of the race, religion, color, sex or national origin of the offeror. They are to be scored on the basis of what they do in this regard rather than their status.

- I. In order to ensure the contractor is performing the contract in compliance with the planned involvement of small businesses and businesses owned by women or minorities, and to ensure that contracting agencies obtain the required statistical data on actual contract performance, the following statements shall be included in Section VI. REPORTING AND DELIVERY REQUIREMENTS of the RFP:

1. Periodic Progress Reports/Invoices

For contracts requiring the submission of periodic contract performance progress reports or program status reports, the contractor will include a section on involvement of small businesses and businesses owned by women and minorities. The section will specify the actual dollars contracted to be spent to-date with such businesses, actual dollars expended to-date with such businesses, and the total dollars planned to be contracted with such businesses on this contract. This information shall be provided separately for small businesses, women-owned businesses and minority-owned businesses.

If the contract does not require the submission of periodic progress reports, the contractor will provide the above required information on actual involvement of small businesses and businesses owned by women and minorities as part of their periodic invoices.

2. Final Actual Involvement Report

The contractor will submit, prior to completion or at completion of the contract and prior to final payment, a report on the actual dollars spent with small businesses and businesses owned by women and minorities during the performance of this contract. At a minimum, this report shall include for each firm contracted with and for each-such business class (i.e., small, minority-owned, women-owned) a comparison of the total actual dollars spent on this contract with the planned involvement of the firm and business class as specified in the proposal, and the actual percent of the total estimated contract value. A suggested format is as follows:

Business Class: [Small, Women-Owned or Minority-Owned]

<u>FIRM NAME, ADDRESS AND PHONE NUMBER</u>	<u>TYPE GOODS/ SERVICES</u>	<u>ACTUAL DOLLARS</u>	<u>PLANNED DOLLARS</u>	<u>% OF TOTAL CONTRACT</u>
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
<u>TOTALS FOR BUSINESS CLASS</u>		<u>nnnnnnnn</u>	<u>nnnnnn</u>	<u>nnn</u>

III. AGENCY STATISTICS REPORTING

Each agency will be required on an annual basis to report summary statistical data on small business, women-owned business and minority-owned business involvement in their procurement activities. The data required to be reported will be on a contract by contract basis as well as on an agency total basis. At a minimum, the information required will be that as indicated in II. 1.2 "Final Actual Involvement Report". The information is to be reported in either hardcopy form or Lotus spreadsheet form on a floppy disk to the Virginia Department of Minority Business Enterprise (DMBE).